

108TH CONGRESS  
1ST SESSION

# H. R. 2914

To amend title 49, United States Code, to provide for the establishment of a flexibility incentive grant program.

---

## IN THE HOUSE OF REPRESENTATIVES

JULY 25, 2003

Ms. CARSON of Indiana (for herself, Mr. OWENS, Ms. JACKSON-LEE of Texas, Mrs. TAUSCHER, Mr. RANGEL, Mr. GRIJALVA, Mr. HONDA, Mr. CAPUANO, Ms. MILLENDER-MCDONALD, Mr. CASE, Mr. FILNER, and Mr. BOSWELL) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

---

## A BILL

To amend title 49, United States Code, to provide for the establishment of a flexibility incentive grant program.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. FLEXIBILITY INCENTIVE GRANT PILOT PRO-**  
4       **GRAM.**

5       (a) IN GENERAL.—Chapter 53 of title 49, United  
6 States Code, is amended by adding at the end the fol-  
7 lowing:

1 **“§ 5339. Flexibility Incentive Grant Pilot Program**

2 “(a) PURPOSE.—The purpose of this section is to  
3 provide incentives to encourage States to establish new  
4 sources of revenue for transit projects and services and  
5 to reward States for creating more flexibility in the use  
6 of their existing transportation funds.

7 “(b) ESTABLISHMENT OF PROGRAM.—The Secretary  
8 of Transportation shall establish a flexibility incentive  
9 grant pilot program in accordance with this section.

10 “(c) SELECTION PROCESS AND CRITERIA.—Not later  
11 than 90 days after the date of enactment of this section,  
12 the Secretary shall establish a process and criteria for se-  
13 lecting States to participate in the pilot program. Any  
14 State may apply under the process to participate in the  
15 pilot program.

16 “(d) SELECTION OF PARTICIPATING STATES.—The  
17 Secretary shall select States to participate in the pilot pro-  
18 gram under the selection process, and based on the selec-  
19 tion criteria, established by the Secretary.

20 “(e) DETERMINATIONS BY THE SECRETARY.—Not  
21 later than September 1 of each of calendar years 2004  
22 through 2009, the Secretary shall determine which of the  
23 States selected to participate in the pilot program in-  
24 creased the aggregate amount of State funds (excluding  
25 funds from Federal sources) that the State expended on  
26 transit projects and services from the State’s second fiscal

1 year preceding such September 1 to the State's first fiscal  
2 year preceding such September 1, the amount of such in-  
3 crease, and the percentage of such increase over the  
4 State's second preceding fiscal year.

5 “(f) GRANTS FOR INCREASED TRANSIT FUNDING.—

6 “(1) STATES WITH AN INCREASE OF 10 PER-  
7 CENT OR MORE.—Subject to paragraph (2) and sub-  
8 section (h)—

9 “(A) the Secretary shall make a grant for  
10 each of fiscal years 2006 through 2010 to each  
11 State selected to participate in the pilot pro-  
12 gram whose percentage increase in expenditures  
13 for transit projects and services over the pre-  
14 ceding fiscal year of the State was 10 percent  
15 or more, as determined by the Secretary under  
16 subsection (e); and

17 “(B) the amount of the grant shall be  
18 equal to the increase in the aggregate amount  
19 of State funds (excluding funds from Federal  
20 sources) that the State expended on transit  
21 projects and services from the second preceding  
22 fiscal year of the State to the first preceding  
23 fiscal year of the State, as determined by the  
24 Secretary under subsection (e); except that the

1 amount of the grant may not exceed  
2 \$5,000,000.

3 “(2) LARGE STATES WITH AN INCREASE OF 1  
4 PERCENT OR MORE.—Subject to subsection (h), for  
5 each of fiscal years 2006 through 2010, the Sec-  
6 retary shall make a grant of \$10,000,000 to each  
7 State selected to participate in the pilot program  
8 whose percentage increase in expenditures for tran-  
9 sit projects and services over the preceding fiscal  
10 year of the State was 1 percent or more, and whose  
11 aggregate expenditures for such projects and serv-  
12 ices in the State’s preceding fiscal year was more  
13 than \$1,000,000,000, as determined by the Sec-  
14 retary under subsection (e).

15 “(g) STATES CREATING FLEXIBLE TRANSPOR-  
16 TATION FUNDS.—

17 “(1) NEW DEDICATED SOURCE OF REVENUE.—

18 “(A) IN GENERAL.—Subject to subsection  
19 (h), for each of fiscal years 2004 through 2010,  
20 the Secretary shall make a grant of  
21 \$10,000,000 to each State that implemented in  
22 the first preceding fiscal year of the State a  
23 dedicated source of revenue for carrying out  
24 only transit projects and services that the Sec-  
25 retary—

1 “(i) determines was not in effect in  
2 the second preceding fiscal year of the  
3 State; and

4 “(ii) projects will result in an increase  
5 of 10 percent in State funds available for  
6 expenditure on such projects and services  
7 within 2 years after the date of such imple-  
8 mentation.

9 “(B) DEDICATED SOURCE OF REVENUES  
10 DEFINED.—For purposes of this paragraph, the  
11 term ‘dedicated source of revenue’ may include  
12 the dedication of a State motor fuels tax or  
13 sales tax, interest on existing highway funds,  
14 motor vehicle excise tax, tolls, loans to be made  
15 out of highway funds, and such other sources of  
16 revenue as the Secretary determines.

17 “(2) UNRESTRICTED USE OF HIGHWAY  
18 FUNDS.—Subject to subsection (h), for each of fiscal  
19 years 2004 through 2010, the Secretary shall make  
20 a grant of \$10,000,000 to each State that in the  
21 preceding fiscal year of the State amended State law  
22 or the State constitution to allow funds that were re-  
23 stricted for highway purposes only to be used for  
24 transit projects and services as well as highway pur-  
25 poses.

1       “(h) LIMITATION FOR STATES ELIGIBILITY FOR  
2 MULTIPLE GRANTS.—If the Secretary determines that a  
3 State is eligible for a grant under more than one of sub-  
4 sections (f)(1), (f)(2), (g)(1), and (g)(2) for a fiscal year,  
5 the Secretary may only make the grant to the State that  
6 is for the greatest amount the State is eligible for under  
7 such subsections.

8       “(i) USE OF GRANTS.—A State may obligate funds  
9 granted to it under this section for any project or activity  
10 eligible for assistance under title 23 or chapter 53.

11       “(j) GRANT REQUIREMENTS.—Except as otherwise  
12 provided in this section—

13               “(1) a grant under this section being used for  
14 a transit project or activity shall be subject to all of  
15 the terms and conditions to which a grant made  
16 under section 5307 is subject; and

17               “(2) a grant under this section being used for  
18 a highway project or activity shall be subject to all  
19 of the terms and conditions that would be applicable  
20 to such project or activity if such project or activity  
21 were being carried out under title 23, United States  
22 Code.

23       “(k) FEDERAL SHARE.—The Federal share of the  
24 cost of a project or activity funded under this section shall  
25 be 100 percent.

1       “(l) AUTHORIZATIONS OF APPROPRIATIONS.—There  
2 are authorized to be appropriated to carry out this section  
3 for each of fiscal years 2004 through 2010 \$80,000,000.  
4 Such sums shall remain available until expended.

5       “(m) PROGRAM EVALUATION.—Not later than 5  
6 years after the date of enactment of this section, the Sec-  
7 retary shall—

8               “(1) conduct a study to evaluate the pilot pro-  
9 gram authorized by this section; and

10              “(2) submit to the Committee on Transpor-  
11 tation and Infrastructure of the House of Represent-  
12 atives and the Committee on Banking, Housing and  
13 Urban Affairs of the Senate a report describing the  
14 results of the study.”.

15       (b) CONFORMING AMENDMENT.—The analysis for  
16 such chapter is amended by adding at the end the fol-  
17 lowing:

“5539. Flexibility incentive grant pilot program.”.

○